



United States District Court

Northern District of California

Chambers of
Jeremy Fogel
United States District Judge

280 South First Street
San Jose, CA 95113

August 4, 2005

Honorable Mary M. Schroeder, Chief Judge
United States Courthouse, Suite 610
401 W. Washington SPC 54
Phoenix, Arizona 85003-2156

Re: Request for Designation of Three-Judge Panel

Dear Chief Judge Schroeder:

Pursuant to 42 U.S.C. §1973c and 28 U.S.C. §2284, I hereby request that you designate two judges to sit with me on a three-judge panel to hear an action recently filed in this district, Martinez, et al. v. Monterey County, et al., Case No. C-05-2950-JF. In this action, Plaintiffs contend that a change in voting procedures related to Proposition 77, an initiative measure that has been certified to appear on the ballot in a statewide special election on November 8, 2005, has not been precleared as required by Section 5 of the Voting Rights Act of 1965. In a parallel state action, the Sacramento Superior Court has issued an order directing that Proposition 77 be stricken from the ballot. However, that order has been stayed by the California Court of Appeal, Third Appellate District, which has set a hearing on the matter for Friday, August 5, 2005. After receiving briefing on Plaintiffs' application for a temporary restraining order, I have issued an order, a copy of which is attached, staying the federal action pursuant to Colorado River Water Conservation District v. United States, 424 U.S. 800 (1976). Nonetheless, I believe that designation of a three-judge panel at the present time is appropriate, because in the event that the judgment in the state action does not moot Plaintiffs' federal claims, prompt disposition of Plaintiffs' claims for injunctive relief will be necessary in light of the impending election.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeremy Fogel".

Jeremy Fogel
United States District Judge

cc:
All Counsel
Cathy Catterson, Clerk of the Court
Chief Judge Vaughn Walker